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09/539,170	03/29/2000	Nosakhare D. Omoigui	MSI-339US	7563

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PERKINS COIE LLP/MSFT
P. O. BOX 1247
SEATTLE, WA 98111-1247

EXAMINER

KOENIG, ANDREW Y

ART UNIT

PAPER NUMBER

2623

DATE MAILED: 04/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.		Applicant(s)	
	09/539,170		OMOIGUI, NOSAKHARE D.	
	Examiner		Art Unit	
	Andrew Y. Koenig		2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 January 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 34-52 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 34-52 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 34-52 have been considered but are moot in view of the new ground(s) of rejection.

Specification

2. The disclosure is objected to because of the following informalities:

On page 3, line 22 of the specification, there appears to be a typographical error in that "form" should be "from."

Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 36, 45, and 48 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claims 36, 45, and 48 introduce the limitation of delaying the switch at the component of the client so that the rendering does not exhaust a buffer of the stream of

data before the second playback speed stream is started to be received, which is not supported in the application as originally filed.

Claim Objections

5. Claims 37 and 42 are objected to because of the following informalities:

In claim 37, line 2, and claim 42, line 2, there appears to be typographical errors: "the second playback speed does so a speed" will be interpreted as "the second playback speed does so at a speed." Appropriate correction is required.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 34-35, 37-39, 41-42, 44, 46-47, and 49-51 are rejected under 35 U.S.C. 102(a/e) as being anticipated by U.S. Patent 5,963,202 to Polish.

Regarding claims 34, 41, and 46, Polish teaches a video server system (105) that sends data in bursts to client systems (115), wherein Polish teaches a computation

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engine (145) within the server that sends the streams of data for a first playback speed from the server to a client via a network (col. 2-3, ll. 59-4). Polish teaches a communication engine (155) at the client (115), that receives the stream of data (col. 3, ll. 7-25). Polish teaches that the client with the video buffer controller (175), video buffer (165), and video driver (170) renders the received stream at the client at a first playback speed (col. 3, ll. 23-50); further based upon selection of a second playback speed, the client switches from the first playback speed to a second playback speed (col. 3, ll. 34-50), and Polish teaches communicating the client's status information to the server, which notifies the server of the second playback speed in that the server needs to accommodate for the size and burst of video information for transmission to the client (col. 3, ll. 51-67, col. 6-7, ll. 64-32). Polish teaches a computations engine (145) at the server, that upon receiving notification of the second playback stream, sends the client the stream of data for the second playback speed at a speed that is greater than required for the second playback speed in that computation engine bases the size of the packet on the expected client consumption rate, expected latency, and current input selected (e.g. fast-forward, rewind, pause, etc) (col. 7, ll. 15-32). Polish teaches switching the rendering of the stream before the client starts receiving from the server stream of the second playback stream (fig. 8, col. 6, ll. 37-60, see also fig. 4-7 for buffer configurations).

Regarding claim 35, as shown in figure 8, Polish teaches rendering the data upon receiving an indication from the user to switch the playback speed without waiting to receive data for the second playback speed (col. 6, ll. 37-60 and col. 6-7, ll. 61-32).

Regarding claims 37, 42, and 49, Polish teaches the keeping the buffer at the client at a predetermined amount of playback time (col. 6-7, ll. 61-14), and thereby adjusts the size for steady-state playback (col. 7, ll. 15-32), which equates to the component of the server that sends the stream of data for the second playback speed do so at a speed required for the second playback speed when the client has a sufficient portion of the stream of data buffered.

Regarding claims 38 and 50, Polish teaches accessing the buffers for different speeds prior to sending a request to the server (fig. 8, col. 6, ll. 36-60), which would result in the no user-noticeable delay in the switching from a first playback speed to a second playback speed.

Regarding claims 39 and 51, Polish teaches accessing the buffers for different speeds prior to sending a request to the server (fig. 8, col. 6, ll. 36-60), which would result in the no user-noticeable pause in the switching from a first playback speed to a second playback speed.

Regarding claims 44 and 47, as shown in figure 8, Polish teaches rendering the data upon receiving an indication from the user to switch the playback speed (col. 6, ll. 37-60 and col. 6-7, ll. 61-32).

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 36, 40, 43, 45, 48, and 52 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,963,202 to Polish in view of U.S. Patent 6,370,688 to Hejna, Jr. (Hejna).

Regarding claims 36, 45, and 48, Polish teaches buffering and switching to the second playback stream, but is silent on the delaying switching so that rendering does not exhaust a buffer before the next stream is started to be received. In analogous art, Hejna teaches delaying switching by reducing the playback speed so that rendering does not exhaust a buffer before the next stream is started to be received (col. 4, ll. 36-65). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Polish by delaying switching so that rendering does not exhaust a buffer before the next stream is started to be received as taught by Hejna in order to delay the onset of data depletion in the capture buffer (Hejna: col. 4, ll. 63-65), thus delaying an undesirable pause caused by a buffer under run.

Regarding claims 40, 43, and 52, Polish teaches video processing but is silent on audio data. In analogous art, Hejna teaches audio along with corresponding video (col. 4, ll. 3-5). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Polish by sending audio with the video as taught by Hejna in order to enhance the presentation of the video, thereby increasing the satisfaction of the viewer.

Conclusion

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew Y. Koenig whose telephone number is (571) 272-7296. The examiner can normally be reached on M-Fr (8:30 - 5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on (571) 272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Andrew Y Koenig
AU 2623